

## **RESOLUTION NO. 2015-13**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING THE TRANSFER OF DEVELOPMENT RIGHTS NO. TD2014-002 WITHIN THE NORTH NEWPORT CENTER PLANNED COMMUNITY (PA 2014-212)**

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by The Irvine Company, LLC ("Irvine Company"), with respect to property located within the North Newport Center Planned Community requesting approval of a transfer of development rights.
2. The applicant proposes the transfer of 83,453 square feet of regional commercial intensity from Fashion Island to Block 100; 16,500 square feet of theater seat intensity from Fashion Island to Block 100; 12,656 square feet of regional commercial intensity from Fashion Island to Block 600; and 134 square feet of general office intensity from Block 500 to Block 600.
3. The General Plan designates Block 100 sub-area as CO-R (Regional Commercial Office) that is intended to provide for administrative and professional offices that serve local and regional markets with limited accessory retail, financial, service, and entertainment uses. Blocks 500 and 600 sub-areas are designated as MU-H3 (Mixed Use Horizontal), which allows regional commercial office uses and residential uses. The Fashion Island sub-area is designated CR (Regional Commercial) and is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents.
4. The subject properties are not located within the coastal zone.
5. General Plan Policy LU 6.14.3 permits development rights to be transferred within Newport Center as long as the transfer is consistent with the intent of the General Plan and will not result in any adverse traffic impacts.
6. The Newport Center Planned Community Development Plan includes procedures that implement General Plan Policy LU 6.14.3.
7. The North Newport Center Planned Community Development Plan transfer implementation procedures provide that the City Council shall approve a transfer of development rights if it finds that the transfer will result in no more PM peak hour trips and no greater intensity of land use than the development allowed without the transfer.
8. Section IV(C)(5) of the North Newport Center Planned Community Development plan provides that applications for the transfer of development rights are considered by the City Council as a ministerial action.

9. A trip transfer analysis titled *North Newport Center Trip Transfer No. 7* (Stantec Consulting Services Inc., January 22, 2015) was prepared for the application for the transfer of development rights in compliance with General Plan Policy LU 6.14.3 and the North Newport Center Planned Community Development Plan.
10. The proposed transfer includes the conversion of land uses on a square foot per spare foot basis except that theater use is allocated 16.1765 square feet per seat pursuant to Section IV(C)(4) of the North Newport Center Planned Community Development Plan. The conversion and transfer of unbuilt regional commercial intensity and theater use from Fashion Island to Block 100 allows the re-occupancy of existing office development and the reuse of an existing fitness facility in Block 600. Additionally, unbuilt office intensity from Block 500 would be converted and transferred to Block 600 to allow reuse of existing fitness facility. Each conversion results in uses that are existing and consistent with the General Plan land use designation applicable to the property upon which they are located.
11. The trip transfer analysis found that the current entitlement would generate a total of 3,481 PM Peak Hour trips before the transfer and a total of 3,461 PM Peak Hour trips after the transfer. Based on the results of the analysis, Stantec and the City Traffic Engineer have determined that no adverse traffic impacts will result from the transfer.
12. A public meeting was held on February 24, 2015, in the City Hall Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. Notice of this hearing was also published in the Daily Pilot and the item was shown on the agenda for this meeting, which was posted at City Hall and on the City website. Evidence, both written and oral, was presented to, and considered by, the City Council at this meeting.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15268 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, which exempts ministerial projects from the requirements of CEQA. CEQA Guidelines Section 15369 defines the term "ministerial" as a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. The transfer of development rights in the North Newport Center Planned Community is a ministerial action under CEQA because it only involves application of fixed standards.

## SECTION 3. FINDINGS.

### THE CITY COUNCIL FINDS THAT:

1. Consistent with General Plan Land Use Policy LU 6.14.3, the transfer is consistent with the intent of the General Plan and the transfer will not result in any adverse traffic impacts.

2. Consistent with the North Newport Center Planned Community Development Plan, the transfer will result in no greater intensity of land use and no greater traffic impact than the development allowed without the transfer.

#### SECTION 4. DECISION.

**NOW, THEREFORE**, the City Council of the City of Newport Beach, California, hereby resolves as follows:

The City Council of the City of Newport Beach hereby approves Transfer of Development Rights No. TD2014-002 (PA2014-212) consisting of the transfer of 83,453 square feet of regional commercial intensity from Fashion Island to Block 100; 16,500 square feet of theater seat intensity from Fashion Island to Block 100; 12,656 square feet of regional commercial intensity from Fashion Island to Block 600; and 134 square feet of general office intensity from Block 500 to Block 600.

#### SECTION 5. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared invalid or unconstitutional.


This resolution shall take effect immediately upon its adoption by the City Council and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 24<sup>th</sup> day of February, 2015.



Edward D. Selich,  
Mayor

ATTEST:



Leilani I. Brown,  
City Clerk

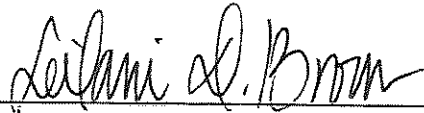


STATE OF CALIFORNIA                    }  
COUNTY OF ORANGE                    }  
CITY OF NEWPORT BEACH                }       ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2015-13 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 24<sup>th</sup> day of February, 2015, and that the same was so passed and adopted by the following vote, to wit:

AYES:               Council Member Peotter, Council Member Petros, Council Member Curry,  
                          Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon,  
                          Mayor Selich  
NAYS:               None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 25<sup>th</sup> day of February, 2015.



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City Clerk  
Newport Beach, California

(Seal)

